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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/573,245

03/23/2006

Simon McQueen Mason

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04/01/2008

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EXAMINER

KUMAR, VINOD

ART UNIT

PAPER NUMBER

1638

MAIL DATE

DELIVERY MODE

04/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/573,245 | Applicant(s) MASON ET AL. | |
| | Examiner VINOD KUMAR | Art Unit 1638 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-44 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 23-38 and 43-44, drawn to an isolated polynucleotide molecule encoding a polypeptide, or a transgenic plant cell comprising said polynucleotide encoding said polypeptide, or wherein said polynucleotide comprises a sequence of SEQ ID NO: 1 encoding the polypeptide of SEQ ID NO: 2, or a method of altering mechanical properties comprising said polynucleotide.

Group II, claim(s) 23-38 and 43-44, drawn to an isolated polynucleotide molecule encoding a polypeptide, or a transgenic plant cell comprising said polynucleotide encoding said polypeptide, or wherein said polynucleotide comprises a sequence of SEQ ID NO: 3 encoding the polypeptide of SEQ ID NO: 4, or a method of altering mechanical properties comprising said polynucleotide.

Group III, claim(s) 23-38 and 43-44, drawn to an isolated polynucleotide molecule encoding a polypeptide, or a transgenic plant cell comprising said polynucleotide encoding said polypeptide, or wherein said polynucleotide comprises a sequence of SEQ ID NO: 5 encoding the polypeptide of SEQ ID NO: 6, or a method of altering mechanical properties comprising said polynucleotide.

Group IV, claims 39-40, drawn to a method for preparing a cell wall extract comprising cell wall with altered mechanical properties.

Group V, claims 41-42, drawn to an amino acid sequence of SEQ ID NO: 2, or a method for the rehydration of dehydrated plant material using said polypeptide.

Group VI, claims 41-42, drawn to an amino acid sequence of SEQ ID NO: 4, or a method for the rehydration of dehydrated plant material using said polypeptide.

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Group VII, claims 41-42, drawn to an amino acid sequence of SEQ ID NO: 6, or a method for the rehydration of dehydrated plant material using said polypeptide.

The inventions listed as Group I-VII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature linking Groups I-VII appear to be nucleic acid sequence encoding a functional expansin protein. However, Theologis et al. (NCBI, GenBank Sequence Accession No.Q9C554, Published 2002; see pages 1-2) disclose a nucleotide sequence encoding a functional expansin protein. Also see Fonseca et al. (WIPO, WO 02/16613, Published 28 February, 2002, Applicant's IDS; see in particular, claims 11-13, 25-26, 29, 31; example 4; SEQ ID NOs: 7 and 8), who discloses a polynucleotide sequence of SEQ ID NO: 7 encoding a functional expansin protein of SEQ ID NO: 8. Fonseca et al. also disclose transgenic plant comprising said polynucleotide.

Therefore, the technical feature linking the inventions of Groups I-VII does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art.

Accordingly, Groups I-VII are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

Applicants are reminded that different nucleotide sequences and amino acid sequences are structurally distinct chemical compounds and are unrelated to one another. These sequences are thus deemed to normally constitute different inventive concepts.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinod Kumar whose telephone number is (571) 272-4445. The examiner can normally be reached on 8.30 a.m. to 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571) 272-0803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Vinod Kumar/
Examiner, Art Unit 1638